

Serial No. 10/037,015

Page 6

REMARKS

Claims 1-17 are pending in this application.

The Office Action rejects, under 35 U.S.C. § 102, claims 1-17 over Colsey (U.S. Application Publication No. 2003/0005429 A1). This rejection is respectfully traversed.

The Office Action alleges, "The affidavit filed on 5/23/05 under 27 C.F.R. § 1.131 has been considered but is ineffective to overcome the Cosley (U.S. Pat. Pub No. 2003/0005429) reference. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Cosley reference to either a constructive reduction to practice or an actual reduction to practice. No evidence was submitted to establish due diligence."

Because the Office Action has alleged no evidence was submitted to establish due diligence, Applicants submit the attached "Agent's Declaration Under 37 C.F.R. § 1.131." The Declaration provides the necessary evidence to establish due diligence. In particular, the Declaration provides evidence that Hisashi D. Watanabe, the responsible attorney, exercised due diligence in the preparation of the instant patent application based on properly managing a docket and chronologically participating in the preparation of and filing the listed patent applications during the critical period.

Thus, in accordance with 37 CFR § 1.131, the Declaration provides the necessary showing of facts that are such, in character and weight, as to establish the due diligence to the filing of the present application.

Thus, the subject matter of the rejected claims was invented prior to the effective date of the reference or activity on which the rejection is based.

Therefore, Applicants respectfully submit that claims 1-17 define patentable subject matter. Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 102.

Serial No. 10/037,015

Page 7

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-17 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any fees arising as a result of this Amendment or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

Respectfully submitted,



Matthew C. Lopnow  
Attorney for Applicant  
Registration No. 45,314

Dated: February 7, 2006

Phone No. (847) 523-2585  
Fax No. (847) 523-2350

Please send correspondence to:  
Motorola, Inc.  
Intellectual Property  
600 North U.S. Highway 45  
Libertyville, IL 60048